

obligation in the same manner and to the same extent as if the funds were apportioned under section 402(c) of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment Pub. L. 95-599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95-599, set out as a note under section 120 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 407. Innovative project grants

(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.

(Added Pub. L. 95-599, title II, § 208(a), Nov. 6, 1978, 92 Stat. 2732.)

§ 408. Alcohol traffic safety programs

(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

(c) No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

(1) in the first fiscal year the State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the alcohol and controlled substance traffic safety program adopted by the State pursuant to subsection (a);

(2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and

(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program.

(d)(1) Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) shall equal 30 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title.

(2) Subject to subsection (c), the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(2) shall not exceed 20 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

(3) Subject to subsection (c), the amount of a special grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(3) shall not exceed 5 per centum of the amount apportioned to such State for fiscal year 1984 under sections 402 and 408 of this title. Such grant shall be in addition to any basic or supplemental grant received by such State.

(e)(1) For purposes of this section, a State is eligible for a basic grant if such State provides—

(A) for the prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer;

(B) for a mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than forty-eight consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any five-year period;

(C) that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

(D) for increased efforts or resources dedicated to the enforcement of alcohol-related

traffic laws and increased efforts to inform the public of such enforcement.

(2) For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition provides for some or all of the criteria established by the Secretary under subsection (f).

(3) For the purposes of this section, a State is eligible for a special grant if the State enacts a statute which provides that—

(A) any person convicted of a first violation of driving under the influence of alcohol shall receive—

(i) a mandatory license suspension for a period of not less than ninety days; and either

(ii)(I) an assignment of one hundred hours of community service; or

(II) a minimum sentence of imprisonment for forty-eight consecutive hours;

(B) any person convicted of a second violation of driving under the influence of alcohol within five years after a conviction for the same offense, shall receive a mandatory minimum sentence of imprisonment for ten days and license revocation for not less than one year;

(C) any person convicted of a third or subsequent violation of driving under the influence of alcohol within five years after a prior conviction for the same offense shall—

(i) receive a mandatory minimum sentence of imprisonment for one hundred and twenty days; and

(ii) have his license revoked for not less than three years; and

(D) any person convicted of driving with a suspended or revoked license or in violation of a restriction due to driving under the influence of alcohol conviction shall receive a mandatory sentence of imprisonment for at least thirty days, and shall upon release from imprisonment, receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license.

(f) The Secretary shall, by rule, establish criteria for effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol, which criteria shall be in addition to those required for a basic grant under subsection (e)(1). The Secretary shall establish such criteria in cooperation with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary may deem appropriate. Such criteria may include, but need not be limited to, requirements—

(1) for the establishment and maintenance of a statewide driver recordkeeping system from which repeat offenders may be identified and which is accessible in a prompt and timely manner to the courts and to the public;

(2) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while intoxicated;

(3) for the impoundment of any vehicle operated on a State road by any individual whose driver's license is suspended or revoked for an alcohol-related driving offense;

(4) for the establishment in each major political subdivision of a State of locally coordinated alcohol traffic safety programs which are administered by local officials and are financially self-sufficient;

(5) for the grant of presentence screening authority to the courts;

(6) for the setting of the minimum drinking age in such State at twenty-one years of age;

(7) for the consideration of and, where consistent with other provisions of State law and constitution the adoption of, recommendations that the Presidential Commission on Drunk Driving may issue during the period in which rules are being made to carry out this section; and

(8) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while under the influence of a controlled substance or for the establishment of research programs to develop effective means of detecting use of controlled substances by drivers.

(g) There is hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, \$25,000,000 for the fiscal year ending September 30, 1983, and \$50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this subsection shall remain available until expended. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.

(Added Pub. L. 97-364, title I, §101(a), Oct. 25, 1982, 96 Stat. 1738; amended Pub. L. 98-363, §§4, 7, July 17, 1984, 98 Stat. 436, 438; Pub. L. 100-17, title II, §203(a), (b), Apr. 2, 1987, 101 Stat. 219.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100-17, §203(a), substituted “5” for “three” in introductory provisions and “third, fourth, and fifth fiscal years” for “third fiscal year” in par. (3).

Subsec. (g). Pub. L. 100-17, §203(b), inserted “and except that sums authorized by this subsection shall remain available until expended” before period at end of second sentence.

1984—Subsec. (a). Pub. L. 98-363, §§4(a), 7(a), struck out “basic and supplemental” after “Secretary shall make” and inserted “or a controlled substance” after “alcohol”.

Subsec. (c)(1). Pub. L. 98-363, §4(b), inserted “and controlled substance” after “alcohol”.

Subsec. (d)(3). Pub. L. 98-363, §7(b), added par. (3).

Subsec. (e)(3). Pub. L. 98-363, §7(c), added par. (3).

Subsec. (f)(8). Pub. L. 98-363, §4(c), added par. (8).

EFFECTIVENESS OF DRUNK DRIVING LAWS

Pub. L. 104-59, title III, §358(d), Nov. 28, 1995, 109 Stat. 626, provided that: “The Secretary shall conduct a

study to evaluate the effectiveness on reducing drunk driving and appropriateness of laws enacted in the States which allow a health care provider who treats an individual involved in a vehicular accident to report the blood alcohol level, if known, of such individual to the local law enforcement agency which has jurisdiction over the accident site if the blood alcohol concentration level exceeds the maximum level permitted under State law."

MINIMUM DRINKING AGE

Pub. L. 97-424, title II, § 209, Jan. 6, 1983, 96 Stat. 2140, provided that: "The Congress strongly encourages each State to prohibit the sale of alcoholic beverages to persons who are less than 21 years of age."

REGULATIONS; CONGRESSIONAL VETO OF SUPPLEMENTAL GRANTS

Section 101(c) of Pub. L. 97-364 provided that: "The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 408 of title 23, United States Code, not later than November 1, 1982. The Secretary shall allow public comment and hold public hearings on the proposed regulations to encourage maximum citizen participation. The final regulations shall be issued, published in the Federal Register, and transmitted to Congress before February 1, 1983. To the extent such regulations relate to the making of basic grants under such section 408, such regulations shall become effective on the date on which they are published in the Federal Register. To the extent such regulations relate to the making of supplemental grants under such section 408, such regulations shall become effective April 1, 1983, unless before such date either House of Congress by resolution disapproves such regulations to such extent. If such regulations are so disapproved by either House of Congress, the Secretary shall not obligate for such supplemental grants any amount authorized to carry out such section 408 for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of this Act [Oct. 25, 1982]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 157 of this title.

§ 409. Discovery and admission as evidence of certain reports and surveys

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, and 152 of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data.

(Added Pub. L. 100-17, title I, § 132(a), Apr. 2, 1987, 101 Stat. 170; amended Pub. L. 102-240, title I, § 1035(a), Dec. 18, 1991, 105 Stat. 1978; Pub. L. 104-59, title III, § 323, Nov. 28, 1995, 109 Stat. 591.)

AMENDMENTS

1995—Pub. L. 104-59 inserted "or collected" after "data compiled".

1991—Pub. L. 102-240 substituted "Discovery and admission" for "Admission" in section catchline and

"subject to discovery or admitted into evidence in a Federal or State court proceeding" for "admitted into evidence in Federal or State court" in text.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

§ 410. Alcohol-impaired driving countermeasures

(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

(c) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 1992. The Federal share payable for any grant under this section shall not exceed—

(1) in the first fiscal year the State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year a program adopted by the State pursuant to subsection (a);

(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

(d) BASIC GRANT ELIGIBILITY.—A State is eligible for a basic grant under this section in a fiscal year only if such State provides for 5 or more of the following:

(1) Establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

(A) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or rev-